



An
Bord
Pleanála

Inspector's Report PL 29S 248898

Development	Construction of a house with front and rear courtyards and pedestrian access via right of way via 8 A, 8b, and 8C The Square to Ropewalk Place and sundry works.
Location	28 Irishtown Road, Ringsend, Dublin 4
Planning Authority	Dublin City Council.
P. A. Reg. Ref.	WEB 1260/17.
Applicant	Susan Cassidy
Type of Application	Permission.
Decision	Grant Permission
Type of Appeal	Third Party
Appellant	Genevieve MacKenzie and Paul Nagle.
Observer	David Morris
Date of Inspection	13 th October, 2017,
Inspector	Jane Dennehy.

1.0 Site Location and Description

- 1.1. The application site has a stated area of two hundred and ten square metres and is to the rear of a nineteenth century cottage in the ownership of the applicant's father. It comprises part of the original garden which was overgrown with trees and shrubs at the time of inspection. An infill development of three dwellings, (Nos. 8 (a), 8 (b) and (c) The Square) is located on land formed from the lower end of the rear garden, the original length of which was circa seventy metres. (Permission was granted following appeal for this infill development under. PL 29S 123862/ P A, Reg. Ref. 2652/00 according to the appeal.)
- 1.2. The appeal site is formed from the remaining rear garden space between this development and the original dwelling. A boundary wall circa two metres in height is located on the north-east boundary adjoining the properties at Nos 8 (a) (b) and (c) The Square. There is a gated access route to the side of the No 8 (c) The Square along which there is a shared right of way for Nos 8 (a) (b) and (c) The Square. for the original property at No 28 Irishtown Road and, the appeal site as far Ropewalk Place, opposite Ringsend Park.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for a two-bedroom bungalow with a state floor area of eighty-nine square metres. A court yard is shown enclosed by three sides of the dwelling and on the north-east side adjacent to the north side boundary along with pedestrian access via the right of way to the side of Nos 8 (a), (b) and (c) to Ropewalk Place. The application does not include proposals for on- site parking.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 28th June 2017, the planning authority decided to grant permission for the development subject to eight conditions most of which are of a standard nature. Condition No 3 contains a requirement for substitution of a sedum roof for the metal cladding shown in the application unless the sedum roof is proven not to be a viable option. The Reason is based on grounds of visual amenity.

3.2. Planning Authority Reports

3.2.1. The planning officer report, the Roads and Traffic Division Report and Drainage Division Report indicate no objection to the proposed development subject to conditions of a minor nature.

3.3. Third Party Observations

3.3.1. Submissions were received from three parties in which issues of concern raised relate to potential for precedent for further backland development, overbearing impact on adjoining properties, construction and construction traffic management and vehicular access and parking issues following occupation of the development.

4.0 Planning History

4.1. PL 29S/246337/P. A. Reg. Ref. WEB 1346/15: The planning authority decision to grant permission for a house with vehicular access and off street carparking was overturned following third party appeal based on overdevelopment on backlands, and serious injury to residential amenities of adjoining properties due to overshadowing and overbearing impact and the proposal for a vehicular access and entrance.

4.2. P. A. Reg. Ref. 1436/16: According to the planning officer report, the planning authority decision to refuse permission for a house with vehicular access and

off street carparking was overturned following appeal based on overdevelopment on backlands, and serious injury to residential amenities of adjoining properties due to overshadowing and overbearing impact and the proposal for a vehicular access and entrance.

5.0 Policy Context

- 5.1. The operative development plan is the Dublin City Development Plan, 2016-2022 according to which the site is subject to the zoning objective: “Z1: *to protect, provide and improve residential amenities*”.
- 5.2. Development management standards for residential development are set out in Section 16.10.

6.0 The Appeal

6.1. Grounds of Appeal

An appeal was received from Genevieve MacKenzie and Paul Nagle on their own behalf on 20th July, 2017 in which it is requested that the decision to grant permission be overturned. According to the appeal:

- The current proposal does not overcome the reasoning for the refusal of permission for the prior proposal. The reduction from 109 square metres to 89 square metres or the floor area is not a significant reduction to address overdevelopment.
- The proposed development is in material contravention of the zoning objective as it would seriously harm the residential amenities of adjoining properties.
- The exclusion of vehicular access is in contravention of the development plan but is welcome. A condition should have been attached that ensures that there is no vehicular access in future.
- Lack of a construction management plan resulted in residents being unable to comment on arrangements. Construction vehicles and equipment and cannot access via the access off Ropewalk and there is little scope in the site for turning. If a private car is too dangerous for the

site a development requiring large construction vehicles is not acceptable from a safety perspective. The same reasoning should be applied to construction vehicles and to private cars.

- The same number of mature trees as in the previous proposal would be lost if the development proceeds. This will erode the residential amenity of No 28. The site is a 'left-over' piece of land from the previously constructed infill (Nos 8 (a), (b) and (c) and has trees which contribute to the outlook from surrounding houses. No proposals were submitted for protection of the trees.
- The site is a 'left-over' piece of land from the previously constructed infill (Nos. 8 (a), (b) and (c) The Square) and has trees which contribute to the outlook from surrounding houses. No proposals were submitted for protection of the trees.
- The dwelling design is very unorthodox and is wedged into a narrow zig zag shaped site which is the only green space among some residential properties.
- The dwelling has a poor standard of amenity which has dark bedrooms and no outdoor space other than light wells surrounded by walls. The dwelling would overshadow the courtyards and the adjoining properties. especially during the spring/summertime.
- Fire safety for future residents was not taken into consideration and is not provided for at the dwelling itself and there is no access for emergency vehicles.

6.2. Applicant Response

A submission was received from Doyle/Kent Planning Ltd., on 17th August, 2017. According to the submission:

- The house is designed to address the prior reasons for refusal of permission and is a complete redesign with significant reduction in scale. It is a modest house design comprising two main sections arranged around four outdoor spaces. It is intended that parking for the development will take place on the public road.

- The site location is an area subject to the zoning objective Z1: to protect, provide for and improve residential amenities. It is erroneously stated in the planning authority and appeal documentation that the zoning objective Z2; Residential Conservation Areas.
- The proposed development accords with the vision set out in section 14.8.1 of the development plan which provides for wide ranging accommodation in sustainable communities within easy reach of and access to services and facilities.
- The proposed development accords the promotion of greater residential densities in section 4.5.3.1 and Policy QH8 in the development plan which reflects national and regional planning policy in minimising wastage of under-utilised infill sites on urban land while providing for a compact city with attractive mixed use neighbourhoods with mixed house types and household formation. The established character in the area is that of individual closely proximate residential properties.
- The modest size dwelling which has a floor area of eighty-nine square metres is not overbearing or overdevelopment because the site is considerably larger than others. It is much smaller than the two and three storey houses at Nos.8 (a), (b) and (c) The Square which have floor areas at circa 180 square metres. The height is just 300 mm above the boundary wall adjacent to Nos 8 (b) and 8 (c) flat and it has low-rise mono-pitch roofing finished in zinc being proposed. The rise in the zinc roof to the highest point is 1.24 metres over a five metres distance.
- The active habitable accommodation is furthest from the appellant's property with the quieter, bedroom areas being nearer and they do not have windows facing the boundary.
- There would be no construction difficulties given the layout and small-scale nature of the project. Construction traffic would be very limited and a construction traffic management plan is unwarranted but the applicant is willing to accept a condition with a requirement for one.
- There is a proper shared access to the site via the paved route across which the properties at The Square share a right of way with the owner of

the property at No 28 Irishtown Road. These property owners were made aware at time of purchase of the right of way and connection to services for the then possible future development on the appeal site.

- The concerns in the reason for refusal of a prior proposal about on-site parking are addressed. Use of parking on Ropewalk which is a wide *cul de sac* and adequate to serve the three houses at The Square and would be adequate to serve the proposed development. Use of the public road is acceptable to the Roads Department at the City Council.
- The existing trees are not of ecological concern or subject to protection and they are too large for the location. The removal of the trees would open the aspect of the rear gardens at Nos 8 (b) and (c) The Square. Attached to the submission is a copy of correspondence from the Observer party's solicitor in which it is confirmed that it is intended to take legal proceedings against the applicant regarding nuisance and danger from the trees on the site and of an intention to insist that the local authority take action in relation to the provisions of the Derelict Sites Act, 1990 in relation to the site.
- The dwelling design accords with the criteria for good design in *The Urban Design Manual* (DOEHLG, 2009) particularly in that:
 - The increase in density is modest, below the prevailing density and equivalent to circa forty-seven units per hectare, appropriate to site constraints and the amenities of adjoining properties.
 - The contemporary design incorporating the courtyard landscaping integrates into the local environment discrete in form layout and scale.
 - The development, which is appropriate to the back-land site contributes significantly and positively to the neighbourhood with impinging on amenities of other properties.
 - The courtyard layout with good light penetration has high amenity potential and is particularly private and sustainable with the outdoor spaces protecting the privacy of the occupants and neighbours as well

as providing for a high standard of outdoor amenity. Good orientation allows for good standards of daylight indoors and outdoors.

- Modern standards for fire detection and escape and there is adequate access, similar to the adjoining properties at the Square for emergency services vehicles.

6.3. Planning Authority Response

In a letter received from the planning authority on 1st August, 2017 it is stated that the planning authority reaffirms its assessment and decision on the application

6.4. Observation

A submission as received from David Morris of No 8 (b), The Square, one of the three properties within the adjoining infill development. He states that he agrees with and supports the appeal and that his property would be subject to adverse impact to privacy, security, safety and further irreversible deterioration to the neighbourhood. Seriously concern is expressed about the site management aspect and maintenance of the proposed development. It is requested that the proposed development not be considered in isolation but in relation to the surrounding environment.

7.0 Assessment

- 7.1. The issues central to the determination of a decision can be considered below under the following sub-categories below.

Trees and Vegetation

Consistency with zoning objectives.

Site layout, Dwelling design, height and form.

Traffic and Parking

Construction management.

Appropriate Assessment

7.2 Trees and Vegetation.

The site lands are heavily overgrown with trees and rough vegetation. The trees are not of special interest, are excessive in size for the small site and in too close proximity to existing development and, without intervention they would continue to grow in size. The statement on behalf of the applicant that there are no trees subject to statutory protection of specific objectives of the development plan or of any special merit within the site is accepted.

7.3 Consistency with zoning objectives.

It can be confirmed that the site location is within an area subject to the zoning objective: “Z1: *to protect, provide and improve residential amenities.*” It is agreed that the site is a backland site in that it is formed from rear garden space of an existing dwelling. It is also described as landlocked in that the lands to the other side which also formed part of the property at No 28 Irishtown Road have also been developed. However, there is provision for a right of shared access via the side of this development known as Nos. 8 (a), (b) and (c) The Square to Ropewalk Place.

There is no objection in principle to residential development on the site. Infill development within areas where services and facilities exist is generally encouraged and, in the interests of sustainable development. The claim made by the applicant’s agent that the proposed development is consistent with the policy objectives for consolidation of development and utilisation of derelict of vacant lands provided for under Policy QH8 and Section 14.8.1 of the Dublin City Development Plan, 2016-2023 is reasonable. A favourable decision is therefore recommended if it is demonstrated that the proposal satisfies the of minimum development management standards and technical criteria with consequent neutral impact on amenities of adjoining properties.

7.4 Site layout, Dwelling design, height and form.

There is sufficient quantity and quality of private open space provision to serve the proposed development, with or without the courtyard spaces being taken into consideration. The internal accommodation and layout is sufficient to provide for adequate attainable residential amenity for the future occupants.

With regard to potential effect on amenities of adjoining properties, the separation distances from the adjoining properties to the west where a rear private open space adjoins the boundary is more than sufficient given the single storey nature of the proposed dwelling. Although the proposed single storey bedroom block abuts the boundary Nos 8 (a) and 8 (b) The Square at the eastern end there is no potential for adverse impact on standards of attainable residential amenity at these properties. This is due to the boundary treatment, the low eaves height at the boundary, the low pitch and low profile monopitch roof and, the concentration of openings onto the courtyard to the west side opposite the main living block.

The separation distances at circa fourteen metres between the west facing building line and the rear building line of the properties at No 28 and adjoining property at No 26 Irishtown Road are sufficient given the single storey nature of the dwellings. However, should permission be granted, attachment of a condition providing to removal of exempt development entitlements would be advisable in that it would allow an opportunity for further planning review.

As regards concerns as to security it is noted that the existing access off Ropewalk serving Nos 8 (a) (b) and (c) The Square and the existing dwelling is a shared private access route and is gated. It is not apparent as to how the substitution of a dwelling on the proposed site which is at present not in use either as amenity space gardens or ancillary development would give rise to security concerns.

7.5 Traffic and Parking.

It is agreed with the appellant that the proposed development does not satisfy the standards for carparking to serve new dwellings within the development plan. A flexible approach is recommended to the application of carparking standards is recommended in that it has been established that on site provision

is not feasible for both the existing and prior unsuccessful proposals. The argument that this deficiency supports the appellant's case that the proposed development is overdevelopment of the site is understandable but it is considered that a satisfactory standard of design and layout has been achieved in all other respects and it is questionable as to whether the lack of parking provision would give rise to precedent, given the somewhat unique characteristics of the site.

On street parking is available along Ropewalk, St Brendan' Cottages, The Square and Irishtown Road. Notwithstanding current heavy demand by residents and other road users for on street parking in the area, which are located convenient to the proposed development it is considered that favourable consideration of the current proposal, for a modest sized dwelling unit should not be precluded solely on grounds of lack of on-site parking provision.

7.6 Construction Management.

During the period of site clearance and construction, some disturbance and inconveniences will inevitably occur within the immediate vicinity and it is a reasonable expectation for any construction project. A construction management or construction traffic management plan is unwarranted for small scale infill developments. Use of some machinery for works and for deliveries and removals is inevitable at times of site clearance and construction which would occur over a short period only and it is reasonable that the existing shared access route from Ropewalk would be used for such purposes during works hours which can be confined, by condition to normal construction hours to minimise disturbance at evening and weekend times.

7.7 Appropriate Assessment.

Having regard to the location of the proposed development which is for a single dwelling unit adjacent to existing residential development on zoned and serviced lands. it is considered that no appropriate assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

In view of the foregoing, it is considered that the applicant has demonstrated that the proposed development is acceptable. It is recommended that the planning authority decision to grant permission be upheld, that the appeal should be rejected and that permission should be granted based on the reasons and considerations and subject to the conditions set out below.

9. Reasons and Considerations

Having regard to the infill nature of the site which is under-utilised, to the site location in an established inner suburban area, to the site configuration and, to the proposed site layout and dwelling size, height, form and design, it is considered that, subject to the conditions set out below, the proposed development would not seriously injure the residential amenities of properties in the vicinity, would provide for an acceptable standard of residential amenity for future occupants, would be acceptable in terms of traffic safety and convenience and would be in accordance with the proper planning and sustainable development of the area.

10. Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars lodged with the planning authority on 18th May, 2017 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Arrangements for connections to the public sewer and water main shall be in accordance with the requirements of the planning authority.

Reason: In the interest of clarity and public health.

3. Details of the materials, colours and textures of all the external finishes including roof materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. Hours of construction shall be confined to the hours of 0800 and 1900 Mondays to Fridays excluding bank holidays and 0800 hrs and 1400 hrs on Saturdays only. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In the interest of the amenities of the area and clarity.

5. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house without a prior grant of planning permission.

Reason: In the interest of the amenities of the area.

6. The developer shall pay to the planning authority a financial contribution of in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be in respect of the retail unit only and shall be paid prior to the commencement of development or in such phased payments as the planning authority may

facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Jane Dennehy
Senior Planning Inspector
16th October, 2017.